



Town of Dumfries  
Council Meeting

Meeting Date:

June 19, 2012

Agenda Item#

XI - B

## AGENDA ITEM FORM

**TYPE OF AGENDA ITEM:**

- ☐ CONSENT AGENDA  
☐ PRESENTATION  
☒ ACTION ITEM  
☐ TOWN MANAGER & STAFF COMMENTS  
☐ PUBLIC HEARING  
☐ Duly Advertised

**PURPOSE OF ITEM:**

- ☐ INFORMATION ONLY  
☐ DISCUSSION ONLY  
☒ DISCUSSION AND/OR DECISION  
☐ Introduction ☐ Resolution  
☐ Ordinance ☐ Grant/MOU  
☒ By Motion ☐ Bylaws

**PRESENTER:** Robert E. Forker, Jr.

**PRESENTER TITLE:** Chief of Police

**AGENDA ITEM:**

Amend the Town Code to create a new "Forbidden to Trespass" ordinance.

**BACKGROUND / SUMMARY:**

A review of the Town Code shows there is no Town Ordinance to forbid trespassing on posted property or after a person has been warned not to trespass. Police Officers currently cite Virginia State Code 18.2-119. The addition of a "Forbidden to Trespass" ordinance will allow officers to use the Town Code. This Town Ordinance, Chapter 38, Article I, Section 38-15, will mirror the State Code

**ATTACHMENTS:**

Staff Action Summary  
Proposed "Forbidden to Trespass" Ordinance

**REQUESTED ACTION:**

☐ NO ACTION REQUESTED

Motion directing staff to move forward with advertising a Public Hearing on July 17, 2012

**FOR MORE INFORMATION, CONTACT:**

Name: Robert Forker

Phone#: 703.221.1111

E-mail: [rforker@dumfriesva.gov](mailto:rforker@dumfriesva.gov)

**FOR USE DURING MEETING**

**VOTE:**

☐ PASSED

☐ NOT PASSED

Y	N		Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Barr	<input type="checkbox"/>	<input type="checkbox"/>	Foreman
<input type="checkbox"/>	<input type="checkbox"/>	Praino	<input type="checkbox"/>	<input type="checkbox"/>	Toney
<input type="checkbox"/>	<input type="checkbox"/>	Vacant			

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Forrester
<input type="checkbox"/>	<input type="checkbox"/>	Washington



## DUMFRIES, VIRGINIA

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June 12, 2012

TO: Dumfries Town Council

FROM: Robert E. Forker, Jr.  
Chief of Police

THRU: Daniel E. Taber  
Town Manager

RE: Create a Town of Dumfries Trespass Ordinance

**I** Current Situation is as follows:

- A. Existing Town Code - There currently are no provisions in the Town of Dumfries Code prohibiting trespassing upon the land of another.
- B. Proposed Amendments to the Town's Code - A summary of the proposed amendment to Town Code, Chapter 38 is attached.
- C. Public Hearing Held - The public Hearing will be held July 17, 2012
- D. Council Action Requested - Amend the Dumfries Town Code, Section 38 to include prohibiting individuals from trespassing upon the land of others.

**II** Issues in order of importance are:

- A. Legal - Would the recommended amendments satisfy the need of the objective, enforceable standards?
- B. Policy/Service Levels - How will this impact current Town policies, service levels, and current community expectations and standards?
- C. Timing - When would the amendments become effective?
- D. Fiscal Impact - Are there any fiscal impacts resulting from the adoption of the proposed amendments?

**III     Alternatives in order of feasibility are:**

A.     Create Dumfries Town Code Section 38-15 to mirror the current Virginia State Code 18.2.119.

1.     Legal - The Town Attorney has reviewed the new ordinance and finds it meets the criteria of Virginia Law.
2.     Policy/Service Levels - Adopting the new ordinance will allow for enforcement of the trespass law through the Dumfries Town Code.
3.     Timing – The amendments would become effective upon adoption.
4.     Fiscal Impact – The Town would receive the fines levied by the Court.

B.     Take No Action:

1.     Legal – Should the new ordinance to the Town Code not be adopted, officers will continue to use the Virginia State Code.
2.     Policy/Service Levels – There would be no change in current policy
3.     Timing – There are no timing issues which would result from taking no action.
4.     Fiscal Impact – There is no fiscal impact as the State would continue to receive the fines levied by the Court

**IV     Recommendation – The Town Council concur with Alternative A and approve the attached resolution.**

**Sec 38-15 - Trespass after having been forbidden to do so.**

If any person without authority of law goes upon or remains upon the lands, buildings or premises of another, or any portion or area thereof, after having been forbidden to do so, either orally or in writing, by the owner, lessee, custodian, or the agent of any such person, or other person lawfully in charge thereof, or after having been forbidden to do so by a sign or signs posted by or at the direction of such persons or the agent of any such person or by the holder of any easement or other right-of-way authorized by the instrument creating such interest to post such signs on such lands, structures, premises or portion or area thereof at a place or places where it or they may be reasonably seen, or if any person, whether he is the owner, tenant or otherwise entitled to the use of such land, building or premises, goes upon, or remains upon such land, building or premises after having been prohibited from doing so by a court of competent jurisdiction by an order issued pursuant to §§ 16.1-253, 16.1-253.1, 16.1-253.4, 16.1-278.2 through 16.1-278.6, 16.1-278.8, 16.1-278.14, 16.1-278.15, 16.1-279.1, 19.2-152.8, 19.2-152.9 or § 19.2-152.10 or an ex parte order issued pursuant to § 20-103, and after having been served with such order, he shall be guilty of a Class 1 misdemeanor. This section shall not be construed to affect in any way the provisions of §§ 18.2-132 through 18.2-136.

(Code 1950, § 18.1-173; 1960, c. 358; 1975, cc. 14, 15; 1982, c. 169; 1987, cc. 625, 705; 1991, c. 534; 1998, cc. 569, 684; 2011, c. 195.)